



**CITY OF SUNNYVALE
REPORT
Planning Commission**

December 15, 2003

SUBJECT: **2003-0825 - Rita and Stanley Lee** [Applicant/Owner] - Application for 27,460 square foot site located at **1698 South Wolfe Road** in a C-1/PD (Neighborhood Business/Planned Development) Zoning District. (APN: 313-38-037) JM

Motion Special Development Permit to allow retail uses for an existing building (to use 1,186 sq. ft. for kitchen and bath design administrative showroom and office).

REPORT IN BRIEF

Existing Site Conditions General & Medical/Dental Office

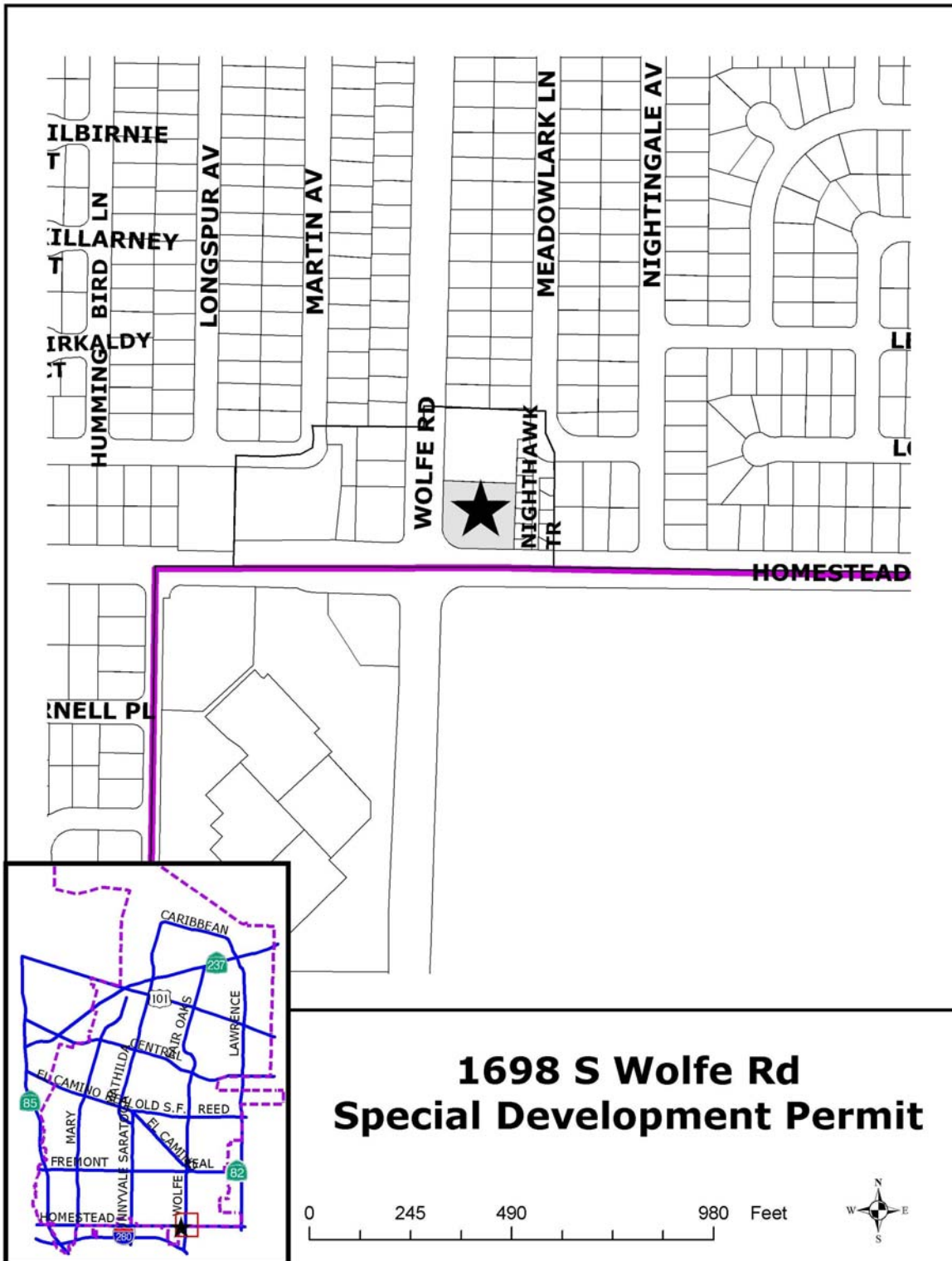
Surrounding Land Uses

North	Restaurant
South	R&D Office/Commercial Retail (across Homestead Road in Cupertino)
East	Townhomes
West	Gas station (across Wolfe Road)

Issues Retail Service Use
Parking

Environmental Status A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Deny



PROJECT DATA TABLE

	<u>EXISTING</u>	<u>PROPOSED</u>	<u>REQUIRED/ PERMITTED</u>	
General Plan	Neighborhood Shopping	Same	Same	
Zoning District	C-1/PD	Same	Same	
Lot Size (s.f.)	27,494 sq. ft.	Same	No min.	
Gross Floor Area (s.f.)	8,230 sq. ft.	Same	By SDP	
Lot Coverage (%)	15.7%	Same	35% max.	
Floor Area Ratio (FAR)	29.9%	Same	No max.	
No. of Buildings On-Site	1	Same	By SDP	
Building Height (ft.)	35 ft. 3 in.	Same	40 ft. max.	
No. of Stories	2	Same	2 max.	
Setbacks (facing prop.)				
• Front	25 ft. 11 in.	Same	By SDP	
• Left Side	72 ft. 11 in.	Same	No min.	
• Right Side	23 ft. 9 in.	Same	15 ft. min.	
• Rear	68 ft. 5 in.	Same	13 ft. min.	
Parking				
Parking				
H	• Total No. of Spaces	41 spaces (allowed by SDP)	Same	43 spaces
H	• No. of Standards	31	Same	43 spaces
H	• No. of Compacts / % of total	8 spaces / 19.5% of total 19.0% of required	Same	No compact spaces permitted
H	• No. of Accessible	2	Same	2 spaces

H Deviations from SMC requirements.

ANALYSIS

Background

The site was previously developed with a gas station, which was constructed in 1970. In the mid-1990s, the gas station closed and was subsequently demolished. In May 2000, the site was approved for construction of a new office building, with the conditions of approval allowing for limited medical/dental use (1,200 sq. ft. max.) and general office use. In June 2002, the applicant proposed retail and personal service uses on the first floor and medical/dental office use on the second floor; however, the applicant modified their proposal in response to the concerns of the residential neighbors located east of the site. The modified application was approved for general and medical/dental office use for the entire building.

Following initial discussions with the proposed tenant, on June 17, 2003, staff received a letter describing the proposed business seeking a determination that the use would be determined to be an office type of use. On June 20, 2003, staff sent a letter in response noting that, as proposed, the kitchen and bath business would be considered a retail use and would not be permitted at the proposed location. On June 23, 2003, correspondence was received by the proposed tenant further defining their business and asking reconsideration of the determination that the kitchen and bath business would be considered a retail operation. On July 3, 2003, a business license was issued for kitchen and bath design administrative office. The business license had specified the business as an "Administrative Office". On October 6, 2003, staff wrote a letter to the tenant, informing them that the business, which includes a showroom, is a nonconforming use and to remove the showroom function from the premises. Staff also advised the tenant that an application for reconsideration of retail uses may be filed. (See Attachment 3 for correspondence and Attachment 4 for business license.)

The owner/applicant has indicated that the current proposal for expanded commercial/retail use of the site is due to the economic hardship posed by trying to rent the office space during a depressed economy.

This Special Development Permit has been Pre-Appealed by the City Council and is scheduled for the January 6, 2004, City Council meeting agenda.

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/ Decision	Date
9418	Special Development Permit to expand the adjacent restaurant (located on the property to the north – 1686 S. Wolfe) onto the subject site. The restaurant expansion never occurred.	Planning Commission/ Approved	9/24/97
2000-0126	Special Development Permit to allow the construction of a new office building with limited medical/dental and general office use.	Planning Commission/ Approved	5/22/00
2002-0297	Special Development Permit to change use to allow medical office use only on second floor and allow for retail use; proposed use was amended to allow for medical/dental and general office use throughout.	Planning Commission/ Approved	6/24/02
2002-0728	Special Development Permit to install two new 50 ft. flagpoles as stealth antennas.	Planning Commission/ Continued	1/13/03

Description of Proposed Project

This proposal includes the expansion of the approved general and medical/dental office use to allow for the use of 1,186 sq. ft. as a kitchen and bath design administrative showroom (commercial/retail) office.

There are no other proposed changes to the previously approved permit, thus Architecture, Stormwater Management, Landscaping, and Easements/Undergrounding are not addressed in this report.

Environmental Review

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemptions include minor alterations to existing facilities.

Use

The subject site is Zoned as Neighborhood Business/Planned Development Zoning District (C-1/PD). The C-1 Zone is a Neighborhood Business District, which is reserved for the construction, use and occupancy of commercial buildings providing retail commercial shopping and service facilities to the adjacent neighborhood residential areas (SMC 19.20.020). The Zoning is combined with Planned Development (PD), which provides for modifications, additions and limitations to other zoning districts to meet special conditions and situations concerning properties within such zoning districts that cannot otherwise be handled satisfactorily (SMC 19.26.010).

Condition of Approval No.5 from the previously approved Special Development Permit 2002-0297 allows for general and medical/dental office use on the site. This Condition of Approval also specifies that any modification of the approved uses would require review at a public hearing before the Planning Commission.

This application, as submitted, is solely for the use of 1,186 sq. ft. office space (about 14.4% of the total floor area) on the first floor to be used as a kitchen and bath showroom. The showroom is currently in operation on the subject site.

Staff considers the business to be a retail service use. "Retail service use" means a use engaged in providing retail sale, rental, service, processing or repair of items primarily intended for consumer or household use. "Retail sales businesses" means a business engaged solely in the retail sales of consumer products (SMC 19.12.190).

The project proponent describes the use as a full service hardware distributor based in Oakland, California. The activities that take place on site involve consultation on home design, and helping customers place an order with the Oakland-based distribution center. No goods are held on the site and there is no exchange of money on site, as all financial transactions occur directly with the Oakland-based headquarters. Once purchased, the kitchen and bath supplies are delivered directly to the customer's home. The showroom hours of operation are 10:00 a.m. to 7:00 p.m. Wednesday through Monday (closed on Tuesdays) and the showroom typically receives 2 to 6 customers per day.

Special Development Permit

Site Layout: The subject site is located on the northeast corner of South Wolfe Road and Homestead Road. The building is located toward the corner of the site at the intersection of Wolfe and Homestead Roads with pedestrian entry points facing the street intersection. Parking is provided along the side and

rear of the building. Landscaping and decorative paving are located between the building and the front property lines adjacent to Wolfe and Homestead Roads.

Landscaping: There are no proposed changes to the previously approved total landscaped area of approximately 7,167 square feet (26% of the lot), which exceeds SMC 19.38.070 landscaping requirements.

Parking/Circulation: Previously approved Special Development Permit 2002-0297 allowed for a total of 41 parking spaces. The current application, seeking to allow limited commercial use, will increase the parking requirement by one additional parking space.

As the site is approved for general office and medical/dental use, the calculation for required parking assumes remaining occupancy by the most restrictive use.

Use	1 Parking Space Per	Compact Spaces Permitted?
General Office	225 sq. ft.	Yes (50%)
Medical/Dental	200 sq. ft.	No
General Retail	180 sq. ft.	Yes (10%)

The following table demonstrated the different parking requirements for the currently permitted use and proposed uses.

Use	Area	1 Parking Space Per	Area/ Parking Space Per	No. Parking Spaces
Current				
Medical/Dental only	8,230 sq. ft.	200 sq. ft.	41.15	42
Proposed				
Medical/Dental	7,044 sq. ft.	200 sq. ft.	35.22	36
General Retail	1,186 sq. ft.	180 sq. ft.	6.59	7
<i>Total</i>				43

Compliance with Development Standards

Use: The existing Kitchen & Bath Design Showroom is not in compliance with currently approved use, as the showroom constitutes a retail use.

Parking: Based on a calculation of the entire site, the proposed expansion for 1,186 sq. ft. of retail use would result in a deviation from the parking requirements set forth in Chapter 19.46.050 of the Sunnyvale Municipal Code.

The site provides 41 parking spaces where 43 would be required; the previously approved permit allowed for 41 when 42 was required. The previously approved permit 2002-0297 also allows for compact spaces where none are permitted with the primarily medical/dental use.

Signs: The subject site currently displays several banners, which are not in compliance with SMC 19.44.020. While the applicant was approved for two Miscellaneous Plan Permits for signage, neither permit applies to the current noncompliant signage.

Expected Impact on the Surroundings

Some additional trips to and from the site would be anticipated with the approval of commercial/retail use, and the shortage of parking during regular business may become an issue.

An increase in noise may also be anticipated; however, it may not be a noticeable increase when measured against the existing noise generated by the proximity of the intersection of Wolfe and Homestead Avenues.

Staff Comments

Use: It is permissible to allow for commercial/retail use for just the 1,186 sq. ft. of space as requested. However, staff typically does not recommend a unique use for an individual tenant space within a property as it may lead to confusion for staff, the applicant and tenants. Such a strategy can also be difficult to implement through time and is not recommended by staff.

The property owner has proposed general retail uses on this site in the past. These uses have raised concerns of adequate parking and hours of operation. The site was designed as an office building with parking located closer to neighboring residences. Due to the office use, the neighbors were not as concerned with the adjacent parking as it was anticipated that there would be minimal nighttime use, and a minimal change-over in traffic. The site has since added medical use, which increases parking demand and trips. The proposed showroom would be similar to the medical office use in that it would further increase the need for parking and is anticipated to increase traffic flows. The design requirement for the proposed use is 43 parking spaces, which is two more than are currently available.

The initial design for previously approved Special Development Permit 2002-0297 had been amended to increase parking spaces at the expense of landscaping and open space on the site. Staff would not support displacing additional landscaping in order to provide additional parking.

Based on the number of customers and type of activity, the current nonconforming use would likely have a negative impact on the site or neighboring properties. Staff is concerned that approving commercial/retail use may result in a future tenant having a negative impact on neighboring property. Due to restrictions and limitations related to parking on site, staff believes that commercial/retail uses should not be permitted.

Findings, General Plan Goals and Conditions of Approval

Staff was not able to make the required Findings based on the justifications for the Special Development Permit.

Staff is recommending denial for this project because all the Findings (Attachment 1) were not made. If the Planning Commission can make the required findings, staff is recommending the Conditions of Approval (Attachment 2).

- Findings and General Plan Goals are located in Attachment 1.
- Conditions of Approval are located in Attachment 2.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Notice of Negative Declaration and Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper• Posted on the site• Mailed to the property owners and tenants within 300 ft. of the project site	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website• Recorded for SunDial

Staff received several letters, emails and telephone calls from neighboring residents. The primary issues in opposition to the application included parking problems and disturbances (see Attachment 5 for copies of letters from other interested parties). There are additional ongoing issues that do not directly pertain to the proposed use on the site.

Staff also received a telephone call from the Sunnyvale Chamber of Commerce. The primary issue was a concern that Sunnyvale be business-friendly, while remaining within the purview of the Sunnyvale Municipal Code.

The Applicants indicated an economic hardship in trying to rent their property in a depressed economy. They noted their efforts to be responsive to their neighbors.

Alternatives

1. Deny the Special Development Permit.
2. Approve the Special Development Permit subject to recommended Conditions of Approval.
3. Approve the Special Development Permit subject to modified Conditions of Approval.

Recommendation

Alternative 1.

Prepared by:

Jamie McLeod
Project Planner

Reviewed by:

Fred Bell
Principal Planner

Reviewed by:

Trudi Ryan
Planning Officer

Attachments:

1. Findings
2. Conditions of Approval
3. Correspondence between staff and tenant
4. Business License for Administrative Office (showroom)
5. Letters from residential neighbors

Findings - Special Development Permit

1. The proposed use does not attain the objectives and purposes of the General Plan of the city of Sunnyvale as indicated below:

Community Development Element/Land Use and Transportation

Policy N1.1 Protect the integrity of the City's neighborhoods; whether residential, industrial or commercial.

The proposed expanded use could impact the integrity of the neighborhood. The existing medical/dental office uses create minimal impacts to the surrounding properties. However, the proposed commercial/retail use would result in a deficiency in parking. The type of activity on site may be regulated with conditions of approval.

Policy C4.3 Consider the needs of businesses as well as residents when making land use and transportation decisions.

The insufficient parking resulting from the proposed expanded use would not help the businesses on site.

Socio-Economic Element

Policy 5.1C.4 Promote business opportunities and business retention in Sunnyvale.

The proposed expanded use would provide additional business opportunities by allowing for additional restricted use for the site and help to maintain the operation of businesses in Sunnyvale.

2. The proposed use will impact on the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties as the proposed change may result in the site being under-parked and may result in additional noise and related impacts.

Conditions of Approval - Special Development Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions, the Permittee expressly accepts and agrees to comply with the following Conditions of Approval for this Permit.

1. Execute a Special Development Permit document prior to issuance of the building permit.
2. If not exercised, this Special Development Permit shall expire two years after the date of approval by the final review authority.
3. Comply with all applicable conditions of Special Development Permit 2002-0297.
4. This Special Development Permit is valid only in accordance with the approved plans allowing general and medical/dental office use, and use for commercial/retail use on the first floor of the building. Any major use, site or architectural modifications shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing before the Planning Commission. Minor changes of the approved plans may be approved by the Director of Community Development.
5. As required by code, the proposed uses shall comply with the requirements of the Noise Ordinance.
6. The specific deviations allowed with this Special Development Permit are a total parking count of 41 spaces where 43 spaces are required.
7. The hours of operation on the site shall be limited to between 8:00 a.m. and 6:00 p.m. and shall be closed on Sunday. The only exception shall be for the medical/dental uses in cases of medical emergency.
8. Business conducted on the site shall be by appointment only.